

BEFORE THE DIVISION OF INSURANCE

STATE OF COLORADO

FINAL AGENCY ORDER O-10-087

**IN THE MATTER OF THE MARKET CONDUCT EXAMINATION OF AETNA
LIFE INSURANCE COMPANY**

Respondent

THIS MATTER comes before the Colorado Commissioner of Insurance (the "Commissioner") as a result of a market conduct examination conducted by the Colorado Division of Insurance (the "Division") of Aetna Life Insurance Company (the "Respondent"), pursuant to §§ 10-1-203, 10-1-204, 10-1-205(8), 10-3-1106, and 10-16-416, C.R.S. The Commissioner has considered and reviewed the market conduct examination report dated October 15, 2009 (the "Report"), relevant examiners' work papers, all written submissions and rebuttals, and the recommendations of staff. The Commissioner finds and orders as follows:

FINDINGS OF FACT

1. At all relevant times, the Respondent was licensed by the Division as a health maintenance organization.
2. In accordance with §§ 10-1-203, 10-1-204, 10-1-205(8), 10-3-1106, and 10-16-416, C.R.S., on October 15, 2009, the Division completed a market conduct examination of the Respondent. The period of examination was January 1, 2008 to December 31, 2008.
3. In scheduling the market conduct examination and in determining its nature and scope, the Commissioner considered such matters as complaint analyses, underwriting and claims practices, pricing, product solicitation, policy form compliance, market share analyses, and other criteria as set forth in the most recent available edition of the Market Regulation Handbook adopted by the National Association of Insurance Commissioners, as required by § 10-1-203(1), C.R.S.
4. In conducting the examination, the examiners observed those guidelines and procedures set forth in the most recent available edition of the Market Regulation Handbook adopted by the National Association of Insurance Commissioners and the Colorado insurance examiners' handbook. The Commissioner also employed other guidelines and procedures that she deemed appropriate, pursuant to § 10-1-204(1), C.R.S.

5. The market conduct examiners prepared a Report. The Report is comprised of only the facts appearing upon the books, records, or other documents of the Respondent, its agents or other persons examined concerning Respondent's affairs. The Report contains the conclusions and recommendations that the examiners find reasonably warranted based upon the facts.
6. Respondent delivered to the Division written submissions and rebuttals to the Report.
7. The Commissioner has fully considered and reviewed the Report, all of Respondent's submissions and rebuttals, and all relevant portions of the examiners' work papers.

CONCLUSIONS OF LAW AND ORDER

8. Unless expressly modified in this Final Agency Order ("Order"), the Commissioner adopts the facts, conclusions and recommendations contained in the Report. A copy of the Report is attached to the Order and is incorporated by reference.
9. Issue A1 concerns the following violation: Failure to include some required provisions in PPO provider contracts. The Respondent shall provide evidence to the Division that it has modified its provider contracts to ensure that they contain all provisions required by Colorado insurance law.
10. Issue E1 concerns the following violation: Failure, in some instances, to provide correct information regarding coordination of benefits with automobile insurance. The Respondent shall provide evidence to the Division that it has amended all applicable forms to remove reference to the repealed Colorado no-fault (PIP) statutes as required by Colorado insurance law.
11. Issue E2 concerns the following violation: Failure, in some instances, to provide accurate Lifetime or Maximum Benefit levels as required under Colorado insurance law. The Respondent shall provide evidence to the division that it has amended all applicable forms to correct the Lifetime Maximum Benefits limit as required by Colorado insurance law. A self audit shall be conducted from the beginning of this exam period through the date of this order to ensure that claims exceeding the improperly-stated maximum benefit levels, but within the statutory-required maximum benefit levels, were paid properly.
12. Issue E3 concerns the following violation: Failure, in some instances, to correctly state the work status requirements for an employee's eligibility for

coverage under the Colorado's small group health benefit plans. The Respondent shall provide evidence to the Division that it has amended all applicable forms to reflect correct employee's eligibility requirements for work status as required by Colorado insurance law. The Respondent has indicated that it has complied with the corrective actions ordered concerning this violation.

13. Issue E4 concerns the following violation: Failure, in some instances, to provide coverage for cervical cancer vaccine as mandated under Colorado insurance law. The Respondent shall provide evidence to the Division that it has corrected all applicable forms to provide coverage for cervical cancer vaccine as required by Colorado insurance law. The Respondent has indicated that it has complied with the corrective actions ordered concerning this violation.
14. Issue E5 concerns the following violation: Failure, in some instances, to provide coverage for the required number of well child visits in policy forms as required under Colorado insurance law. The Respondent shall provide evidence to the Division that it has corrected all applicable forms to reflect the correct number of well child care visits as required by Colorado insurance law. In addition, the Company shall perform a self-audit from the beginning of this exam period through the date of this order to correct any claims for well child visits that were denied.
15. Issue E6 concerns the following violation: Failure, in some instances, to provide a complying definition of complications of pregnancy in the Company's policy forms as required under Colorado insurance law. The Respondent shall provide evidence to the Division that it has corrected all applicable forms to reflect a complying definition of complications of pregnancy as required by Colorado insurance law. The Respondent has indicated that it has complied with the corrective actions ordered concerning this violation.
16. Issue E7 concerns the following violation: Failure, in some instances, to provide the required notice of the right of an independent external review of benefits denials in its Basic and Standard health benefit plan forms. The Respondent shall provide evidence to the Division that it has corrected all applicable forms to reflect the right to an independent external review as required by Colorado insurance law. The Respondent has indicated that it has complied with the corrective actions ordered concerning this violation.
17. Issue E8 concerns the following violation: Failure, in some instances, to provide correct deductibles and out-of-pocket expense information in the Basic and Standard health benefit plan forms. The Respondent shall provide evidence to the Division that it has corrected all applicable forms to reflect correct deductible and out-of-pocket limits as required by Colorado

insurance law. The Respondent has indicated that it has complied with the corrective actions ordered concerning this violation.

18. Issue E9 concerns the following violation: Failure, in some instances, to provide correct information regarding mandated coverage for outpatient physical, occupational and speech therapy. The Respondent shall provide evidence to the Division that it has corrected all applicable forms to reflect correct coverage for occupational, speech and physical therapy as required by Colorado insurance law. In addition, the Company shall perform a self-audit from the beginning of this exam period through the date of this order to correct any claims for therapy services that were incorrectly denied.
19. Issue E10 concerns the following violation: Failure, in some instances, to provide correctly state the annual prescription deductibles in the Basic and the prescription drug copayment in the Standard health benefit plan forms. The Respondent shall provide evidence to the Division that it has corrected all applicable forms to reflect correct information regarding the prescription deductible as required by Colorado insurance law. In addition, the Company shall perform a self-audit from the beginning of this exam period through the date of this order to correct any claims for therapy services that were incorrectly denied.
20. Issue E11 concerns the following violation: Failure of the Company's forms, in some cases, to reflect the required number of home health care visits. The Respondent shall provide evidence to the Division that it has corrected all applicable forms to reflect correct coverage for home health care visits as required by Colorado insurance law. In addition, the Company shall perform a self-audit from the beginning of this exam period through the date of this order to pay any claims for home health services or hospice care that were incorrectly denied.
21. Issue E12 concerns the following violation: Failure, in some instances, to allow benefits for covered services based on a licensed provider's status as a family member of the insured's or insured dependent's household. The Respondent shall provide evidence to the Division that it has corrected all applicable forms to reflect coverage for services preformed by licensed providers who may also be a family member or live in the insured's household as required by Colorado insurance law. The Respondent has indicated that it has complied with the corrective actions ordered concerning this violation.
22. Issue E13 concerns the following violation: Failure, in some instances, to provide correct information regarding the requirement for precertification. The Respondent shall provide evidence to the Division that it has corrected all applicable forms to reflect that pre-certification for services is the responsibility of the provider as required by Colorado insurance law. The

Respondent has indicated that it has complied with the corrective actions ordered concerning this violation.

23. Issue E14 concerns the following violation: Failure, in some cases, to include correct information regarding the time periods for application of pre-existing condition limitations. The Respondent shall provide evidence to the Division that it has corrected all applicable forms to reflect correct preexisting time period limitations as required by Colorado insurance law. In addition, the Company shall perform a self-audit from the beginning of this exam period through the date of this order to correct any claims that were denied due to improper application of pre-existing limitations.
24. Issue E15 concerns the following violation: Failure, in some cases, to reflect the correct minimum benefit level for mammography in individual policies. The Respondent shall provide evidence to the Division that it has corrected all applicable forms to reflect the correct minimum benefit level for mammography as required by Colorado insurance law. In addition, the Company shall perform a self-audit from the beginning of this exam period through the date of this order to correct any mammography claims that may have been underpaid.
25. Issue E16 concerns the following violation: Failure, in some instances, to proscribe the use of genetic testing in connection with a pre-existing condition. The Respondent shall provide evidence to the Division that has revised all applicable forms to provide correct information regarding the use of genetic testing information as required under Colorado insurance law.
26. Issue E17 concerns the following violation: Failure, in some instances, to provide an offer of coverage for overage dependents. The Respondent shall provide evidence to the Division that has corrected all applicable forms to include an offer of coverage for dependents to age twenty-five (25) as required by Colorado insurance law. The Respondent has indicated that it has complied with the corrective actions ordered concerning this violation.
27. Issue E18 concerns the following violation: Failure, in some cases, to accurately reflect the time periods in which claims should be paid. The Respondent shall provide evidence to the Division that has corrected all applicable forms to reflect the correct time periods for payment of claims as required by Colorado insurance law. The Respondent has indicated that it has complied with the corrective actions ordered concerning this violation.
28. Issue E19 concerns the following violation: Failure, in some instances, to include coverage for early intervention services as required by Colorado insurance law. The Respondent shall provide evidence to the Division that has corrected all applicable forms to reflect coverage for early intervention services as required by Colorado insurance law.

29. Issue E20 concerns the following violation: Failure, in some instances, to reflect correct information regarding an insured's option to assign claim benefits directly to providers. The Respondent shall provide evidence to the Division that has corrected all applicable forms to reflect correct information regarding assignment of benefits as required by Colorado insurance law. The Respondent has indicated that it has complied with the corrective actions ordered concerning this violation.
30. Issue E21 concerns the following violation: Failure, in some instances, to provide coverage for mandated organ transplants. The Respondent shall provide evidence to the Division that has corrected all applicable forms to reflect correct coverage for mandated organ transplants as required by Colorado insurance law. In addition, the Company shall perform a self-audit from the beginning of this exam period through the date of this order to correctly pay any claims that were improperly denied for "other single and multi-organ transplants."
31. Issue E22 concerns the following violation: Failure, in some instances, to provide for continuation of insurance for a Member or Dependent merely because they qualify or are eligible for Medicare or Medicaid. The Respondent shall provide evidence to the Division that has corrected all applicable forms to reflect a continuation of coverage regardless of eligibility for Medicare or Medicaid as required by Colorado insurance law. The Respondent has indicated that it has complied with the corrective actions ordered concerning this violation.
32. Issue E23 concerns the following violation: Failure, in some instances, to correctly define a significant break in coverage as it pertains to pre-existing conditions exclusions. The Respondent shall provide evidence to the Division that has corrected all applicable forms to reflect an accurate definition of a significant break in coverage as required by Colorado insurance law. The Respondent has indicated that it has complied with the corrective actions ordered concerning this violation.
33. Issue E24 concerns the following violation: Failure, in some cases, to reflect mandated coverage for inherited enzymatic disorders. The Respondent shall provide evidence to the Division that has corrected all applicable forms to reflect coverage for inherited enzymatic disorders as required by Colorado insurance law.
34. Issue E25 concerns the following violation: Failure, in some instances, to provide coverage for newly acquired dependent from the date of birth, adoption or placement for adoption without pre-existing condition for other restrictions unless enrolled within thirty-one (31) calendar days, even when the addition of said dependent would not result in any additional premium to cover the newborn or adopted child. The Respondent shall provide

evidence to the Division that has corrected all applicable forms to reflect accurate information regarding enrollment requirements for a newly acquired dependent as required by Colorado insurance law.

35. Issue E26 concerns the following violation: Failure, in some instances, to include accurate information regarding coordination of benefits with Medicare. The Respondent shall provide evidence to the Division that has corrected all applicable forms to reflect accurate information regarding coordination of benefits with Medicare as required by Colorado insurance law.
36. Issue E27 concerns the following violation: Failure, in some instances, to provide information regarding coverage and benefits that is not misleading and/or contradictory in accordance with Colorado insurance law. The Respondent shall provide evidence to the Division that has modified all applicable forms to reflect language that is not misleading and/or contradictory as required by Colorado insurance law.
37. Issue E28 concerns the following violation: Failure, in some instances, to include a correct definition of an eligible dependent in accordance with Colorado insurance law. The Respondent shall provide evidence to the Division that has modified all applicable forms to reflect language that correctly defines an eligible dependent as required by Colorado insurance law.
38. Issue E29 concerns the following violation: Failure, in some instances, to correctly and completely define coverage for Cleft Lip and Cleft Palate and to cover all required benefits. The Respondent shall provide evidence to the Division that has modified all applicable forms to reflect language that correctly and completely defines coverage for Cleft Lip and Cleft Palate as required by Colorado insurance law. In addition, the Company shall perform a self-audit from the beginning of this exam period through the date of this order to correctly pay any claims that were improperly denied for Cleft Lip or Cleft Palate.
39. Issue E30 concerns the following violation: Failure, in some instances, to correctly and completely define eligibility for a second level review in accordance with Colorado insurance law. The Respondent shall provide evidence to the Division that has modified all applicable forms to reflect language that correctly and completely defines eligibility for a second level review as required by Colorado insurance law.
40. Issue E31 concerns the following violation: Failure, in some instances, to include mandated coverage for hospitalization and general anesthesia for dental procedures for dependent children in accordance with Colorado insurance law. The Respondent shall provide evidence to the Division that

has modified all applicable forms to reflect the mandatory coverage for hospitalization and general anesthesia for dental procedures for dependent children as required by Colorado insurance law.

41. Issue F1 concerns the following violation: Failure to submit a rate filing for the AARP medical expense insurance plan prior to using the rates and marketing the plan. The Respondent shall provide evidence to the Division that has corrected its rate filing procedure to ensure that rates are filed for all products prior to marketing them as required by Colorado insurance law.
42. Issue G1 concerns the following violation: Failure of the Company's small group renewal forms to provide accurate information regarding dependent coverage. The Respondent shall provide evidence to the Division that has corrected its Small Group renewal notices to reflect correct information regarding dependent coverage as required by Colorado insurance law.
43. Issue H1 concerns the following violation: Failure to reflect the full definition of significant break in coverage in certificate of creditable coverage notice forms. The Respondent shall provide evidence to the Division that has corrected its Certificate of Creditable Coverage Notice to reflect the definition of a significant break in coverage as required by Colorado insurance law.
44. Issue H2 concerns the following violation: Failure, in some instances, to provide written notice of the availability of small group coverage to business groups of one upon denial of coverage under an individual plan. The Respondent shall provide evidence to the Division that has corrected its procedures to ensure that all applicants who are declined coverage under an individual plan and who appear to be Business Groups of one (BGI) receive notice of the availability of small group coverage as required by Colorado insurance law.
45. Issue H2 concerns the following violation: Failure, in some instances, to offer to each member of terminating small groups a choice of the Basic or Standard Health Benefits Plans. The Respondent shall provide evidence to the Division that has corrected its procedures to ensure that an offer of either the Basic or Standard health benefit plans is made to all employees of terminated groups whose coverage was not replaced with other group coverage as required by Colorado insurance law.
46. Issue J1 concerns the following violation: Failure, in some instances, to pay, deny or settle claims within the time periods required by Colorado insurance law. The Respondent shall provide evidence to the Division that has revised its procedures to ensure that all claims are paid, denied or settled within the time periods as required by Colorado insurance law.

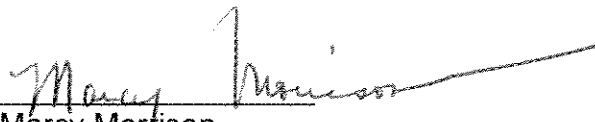
47. Issue J2 concerns the following violation: Failure, in some instances, to pay correct interest and/or penalty on claims not paid, denied or settled within the time frames required by Colorado insurance law. The Respondent shall provide evidence to the Division that has revised its procedures to ensure that interest and/or penalties are paid for all claims not paid within the time periods required by Colorado insurance law. The Company shall perform a self-audit from the beginning of this exam period through the date of this order to ensure that all past due interest and penalties are paid.
48. Issue J3 concerns the following violation: Failure, in some instances, to request additional information required for the adjudication of unclear claims in accordance with Colorado insurance laws. The Respondent shall provide evidence to the Division that has revised its procedures to ensure that unclear claims requiring additional information to adjudicate are handled in accordance with Colorado insurance laws.
49. Issue K1 concerns the following violation: Failure, in some instances, to comply with the notification requirements pertaining to an external review. The Respondent shall provide evidence to the Division that has corrected its procedures to ensure that all required notifications are sent to covered persons or their representatives concerning independent external review as required under Colorado insurance law.
50. Issue K2 concerns the following violation: Failure, in some cases, to ensure that the majority of the appeal review committee was comprised of health care professionals with the appropriate expertise in relation to the case for second level review. The Respondent shall provide evidence to the Division that has corrected its procedures to ensure that the majority of reviewers of second level utilization reviews are comprised of health care professionals with the appropriate expertise in relation to the case presented as required by Colorado insurance law.
51. Issue K3 concerns the following violation: Failure, in some instances, to provide the names, titles or qualifying credentials of participants in second level reviews. The Respondent shall provide evidence to the Division that has corrected its procedures to ensure that the names, titles or qualifying credentials of the members of all second level utilization review panels are provided to covered persons as required by Colorado insurance law.
52. Issue K4 concerns the following violation: Failure, in some instances, to provide all required disclosures to covered persons or their representatives for second level reviews. The Respondent shall provide evidence to the Division that has corrected its procedures to ensure that all required disclosures are provided to covered persons or their representatives concerning second level utilization reviews as required by Colorado

insurance law.

53. Issue K5 concerns the following violation: Failure, in some instances, to include the name, title and qualifying credentials of the physician who evaluated the appeal and the qualifying credentials of the clinical peer(s) with whom the physician consulted in first level review decision letters. The Respondent shall provide evidence to the Division that has corrected its procedures to ensure that the name, title and qualifying credentials of the physician and the clinical peer(s) is included in the decision notification sent to covered persons of all first level utilization reviews as required by Colorado insurance law. The Respondent has indicated that it has complied with the corrective actions ordered concerning this violation.
54. Pursuant to § 10-1-205(3)(d), C.R.S, the Respondent shall pay a civil penalty to the Division in the amount of Three Hundred Thirty-one Thousand and no/100 dollars (\$330,000.00) for the cited violations of Colorado law. This fine was calculated in accordance with Division guidelines for assessing penalties and fines, including Division Bulletin No. B-1.3, originally issued on January 1, 1998, re-issued May 8, 2007. Said penalty shall be assessed a 10% surcharge up to \$200,000, or \$20,000.00, pursuant to 24-34-108, C.R.S. for a total balance due of \$350,000.00 which will be due to the Division within 30 days of the signing of this Final Agency Order. This surcharge will be used to fund the development, implementation and maintenance of a consumer outreach and education program.
55. Pursuant to § 10-1-205(4)(a), C.R.S., within sixty (60) calendar days of the date of this Order, the Respondent shall file affidavits executed by each of its directors stating under oath that they have received a copy of the adopted report and related Order.

56. Unless otherwise specified in this Order, all requirements with this Order shall be completed within thirty (30) calendar days of the date of this Order. Respondent shall submit written evidence of compliance with all requirements to the Division within the thirty (30) calendar day time frame, except where Respondent has already complied, as specifically noted in the Order. Forms violations may be corrected by revising the appropriate noncompliant area(s) of the forms, or by issuing an addendum to correct the noncompliant areas if the Company is unable to correct the actual form within the required time period. Copies of any rate and form filings shall be provided to the rate and forms section with evidence of the filings sent to the market conduct section. All self audits, if any, shall be performed in accordance with Division's document, 'Guidelines for Self Audits Performed by Companies'. Unless otherwise specified in this Order, all self audit reports must be received within ninety (90) calendar days of the Order, including a summary of the findings and all monetary payments to covered persons.
57. This Order shall not prevent the Division from commencing future agency action relating to conduct of the Respondent not specifically addressed in the Report, not resolved according to the terms and conditions in this Order, or occurring before or after the examination period. Failure by the Respondent to comply with the terms of this Order may result in additional actions, penalties and sanctions, as provided for by law.
58. Copies of the examination report, and this final Order will be made available to the public no earlier than thirty (30) calendar days after the date of this Order, subject to the requirements of § 10-1-205, C.R.S.

WHEREFORE: It is hereby ordered that the findings and conclusions contained in the Report dated October 15, 2009, are hereby adopted and filed and made an official record of this office, and the above Order is hereby approved this 16th day of February, 2010.


Marcy Morrison
Commissioner of Insurance

CERTIFICATE OF MAILING

I hereby certify that on the 16th day of February, 2010, I caused to be deposited the **FINAL AGENCY ORDER NO. O-10-087 IN THE MATTER OF THE MARKET CONDUCT EXAMINATION OF AETNA LIFE INSURANCE COMPANY**, in the United States Mail via certified mailing with postage affixed and addressed to:

Mr. Ronald A. William
Aetna Life Insurance Company
151 Farmington Avenue
Hartford, CT 06156

A handwritten signature in cursive script, reading "Eleanor Patterson", written over a horizontal line.

Eleanor Patterson
Market Regulation Administrator
Division of Insurance